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OTI MONTHLY RISK MANAGEMENT ALERT

MARCH 2008

“10 + 2” ABCs FOR THE NVOCC.

10 + 2 is intended to improve the ability of Customs and Border Protection (“CBP”) to identify high-risk shipments to the United States. 10 + 2 will require both importers and ocean carriers to electronically submit to CBP, in addition to AMS, additional information pertaining to cargo before the cargo is brought into the United States by vessel. This information (**ten elements**) must be provided by the importer (**Importer Security Filings--“ISF”**), like AMS, **24 hours** before the cargo is laden on board a vessel overseas. The carrier must provide **2 elements**, a stow plan of the vessel, and Container Status Messages recording the location of each container at various points in the shipping cycle. 2 of the 10 elements are **directly NVOCC relevant**: a) **Where was the container stuffed? and; b) Who stuffed or arranged for stuffing the container?** The transmissions of the data to CDP are to be done by a sole filer on the AMS or ABI platforms. While the Importer has the primary responsibility to provide the ten elements, it may delegate this function to an agent. The ten elements are: 1. Manufacturer or supplier name and address. 2. Seller name and address. (3) Buyer name and address. (4) Ship to name and dress. (5) Container stuffing location. (6) Consolidator (stuffer) name and address. (7) Importer of record number. 8) Consignee number(s). (9) Country of origin. (10) Commodity HTSUS number, to the 6 digit level. **The consolidator NVOCCs’ dilemma:** When to stuff a box with multiple shippers? Do you wait until all shipments in a box have received an electronic acknowledgment from CBP that the 10 elements have been received? If the NVOCC is AMS qualified, should the NVOCC become the designated agent to the importer to gain control of the process? Should that be viewed as a premier service as opposed to when the NVOCC does not have control of the submissions to CBP and delays can be anticipated? Since the housebill with a direct connection with the actual importer is the target bill of lading for CBP, how should co-load cargo be treated? These questions, and the corresponding commercial and legal mechanisms to minimize risks should be dealt with by the NVOCC before implementation of 10 + 2 is mandatory. **The ultimate**

calamity: A box is rejected at the terminal gate because one of the loads has not been cleared for 10+2. Then follow delays and expenses for stripping of boxes to remove the “infected” parcels. Solid IT, operations, and legal preparations are essential. Contact: Carlos Rodriguez. rodriguez@rorlaw.com.

MORE FACES AT THE BORDER.

The Consumer Product Safety Commission has announced a new strategy to deal with widely-publicized safety issues in imported consumer products. The strategy, announced on March 5th, calls for the creation of an Import Surveillance Division within CPSC. The division will coordinate with Customs & Border Protection to identify, stop and examine consumer products as they arrive in the U.S. Based on the results of the examination, the products will be released or held. The Port of Long Beach will be the first port of entry to have a permanent CPSC presence. CPSC will expand its physical presence to other ports as the division is expanded. The CPSC’s initiative precedes pending legislation that will likely require the Commission to increase employment of full-time inspectors. The Senate version of the CPSC Reform Act would require the Commission to assign at least 50 additional inspectors to duty at U.S. ports of entry. The House version, however, only requires the Commission to report to Congress within 180 days on the number of full-time inspectors it intends to employ. While the details will not be known until the Conference Committee resolves the differences between the two versions of the legislation, the increased and similar amounts of funding in both versions clearly indicates that Congress intends for the Commission to hire more personnel to expand its enforcement efforts. The pending legislation also requires importers, retailers or distributors to identify the manufacturer of products upon the request of the Commission. The Commission will also have the authority to require the destruction of hazardous consumer products in lieu of exportation. Contact: Kevin Williams – kwilliams@chicago.rorlaw.com.

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